



District of Columbia Sentencing Commission

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MINUTES OF VIRTUAL COMMISSION MEETING

May 16, 2023

Via WebEx

Voting Members in Attendance:

| | |
|---|--------------------|
| Hon. Milton Lee | William Martin |
| Hon. Marisa Demeo | Katerina Semyonova |
| Frederick Cooke | Molly Gill |
| Nazgol Ghandnoosh | Cedric Hendrick |
| Rosalyn Calbert Groce (temporary Office of the Attorney General representative) | |

Non-Voting Members in Attendance:

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| Cristina Hillyer for Sonya Thompson | Leslie Parson |
| Michael Porcello for Councilwoman Brooke Pinto | Eric Glover |
| Stephen J. Husk | |

Staff in Attendance:

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|------------------|-------------------|-----------------|---------------|
| Linden Fry | Basil Evans | Maeghan Buckley | Emily Blume |
| Brittany Bunch | Taylor Tarnalicki | Mia Hebb | Keelin Herbst |
| Nicholas McGuire | | | |

Chairman Monthly Meeting Introduction – Action Item, Judge Lee, Chairman

Judge Lee called the May meeting to order at 5:05 p.m. A roll call was completed. Initially a quorum was not established. The required quorum was met during the Judge Lee's Meeting Introduction.

Review and approval of the minutes from April 18, 2023, Commission meeting – Action Item, Judge Lee, Chairman.

The Commission received the draft April meeting minutes for final review prior to the May meeting. Once a quorum was established, members voted by roll call to approve the minutes (eight votes in favor, zero opposed, and one abstention).

New Staff Member Introductions – Information Item, Linden Fry, Executive Director

The Commission's new Attorney Advisor, Nicholas McGuire, and Policy Advisor, Keelin Herbst, introduced themselves to the Commission. Judge Lee and other members welcomed the new staff members.

Director's Report - Information Item, Linden Fry, Executive Director

Mr. Fry provided an update on the Commission's recent activities.

Mr. Fry informed the Commission that due to the efforts of Councilmember Brooke Pinto and her Commission Representative, Michael Porcello, to secure \$350,000 in fiscal year 2024 Capital Funds, the Commission will likely have the funding to complete its ongoing project to update its internal data system

so that it can function after the D.C. Superior Court's implements its new case management system. The staff is currently working with the Commission's vendor to negotiate a contract modification for the necessary data system upgrades.

The Commission continues to work with its partners, the United States Attorney's Office and the Office of the Attorney General, to gain access to the IJIS 8.1 arrest data feed. Access will enable staff members to verify arrest papering rate data that the Commission currently collects and analyzes.

Obtaining access to Pre-Sentence Reports (PSRs) remains a top priority to the Commission. In previous years, the Commission sought to obtain PSRs from CSOSA, but was held back due to legal hurdles. The Commission is now working with the D.C. Superior Courts to determine if the Court can provide PSRs to the Commission. The request is being reviewed by the Court. Access to these reports will allow the Commission to better evaluate the effects of potential Guidelines modifications and expand the Commission's research capabilities.

A second reminder was given to encourage interested Commission members to join the 2023 Guidelines Implementation Committee (GIC). Members were asked to contact the Commission's Attorney Advisor, Maeghan Buckley, to join the Committee. Ms. Buckley will submit a memo reviewing potential changes to the Guidelines to the GIC by June 16, 2023. The 2023 D.C. Voluntary Sentencing Guidelines Manual is projected to be released in mid-August 2023.

Before ending the report, Mr. Fry informed Commission members that the Commission will have a summer intern this year. Mary Zenger, will be joining the staff on May 22, 2023. Amongst other projects, she will be assisting with the 2023 Guidelines Manual editing process as well as offering support during community outreach events scheduled this summer.

Data Response Presentation – CPWL and Felon in Possession Offense Data – Information Item, Taylor Tarnalicki, Statistician

Members were presented with a high-level overview of adult arrest and sentencing trends for two prominent gun possession offenses, Carrying a Pistol Without a License (CPWL) and Unlawful Possession of a Firearm (UPF), also referred to as Felon in Possession. The analysis was recently shared with the Criminal Justice Coordinating Council (CJCC), who inquired about 2018-2022 arrest to sentencing trends for these two offenses.

Below is a list of key findings that were included in the analysis:

- 66% of arrests containing a CPWL charge were sent to D.C. Superior Court for prosecution;
- 60% of papered CPWL arrests resulted in a finding of guilt, for any criminal offense. Approximately 40% of these convicted cases contained a CPWL conviction;
- The majority, 58%, of CPWL convictions resulted in a probation sentence, while only 12% received a prison sentence;
- 61% of arrests containing a UPF charge were filed in D.C. Superior Court;
- 53% of papered UPF arrests resulted in a finding of guilt, for any criminal offense. Approximately 48% of these convicted cases contained a UPF conviction;
- 94% of UPF convictions resulted in a prison sentence, which is largely attributed to the one year mandatory minimum sentence for this offense.

To see additional information and the full paper click [here](#).

Following the presentation, Judge Demoe asked for clarification regarding whether the papering rates for UPD include charges that are filed post indictment. Ms. Tarnalicki confirmed that charges filed after indictment are not a part of the data presented. Judge Lee offered his insight regarding the data and noted that, from his lens, CPWL charges are often filed in conjunction with other charges.

Criminal Rule 11(c)(1)(C) Quarterly Report – Information Item, Emily Blume, Research Analyst

The Commission's Research Analyst, Emily Blume, presented a summary of the Commission's Quarter Two (January 1, 2023 – March 31, 2023) Rule 11(c)(1)(C) Quarterly Report. A Rule 11(c)(1)(C) plea is an agreement between the defense attorney and the prosecution regarding a specific sentence or sentence range to which initially the Court is not bound. Judges use additional information such as victim impact statements to guide their decisions. Once the judge reviews this information, the judge can choose to agree or disagree with the plea. If the judge agrees, then they are bound to impose a specific sentence or a sentence within the agreed upon range. All Rule 11(c)(1)(C) pleas are considered Guidelines compliant.

Highlights from Quarter Two include:

- 15% of all felony counts sentenced were resolved via a Rule 11(c)(1)(C) plea agreement;
- 40% of Rule 11(c)(1)(C) plea agreements were associated with Violent Offenses;
- 37 individuals' cases were resolved via a Rule 11(c)(1)(C) plea agreement; and
- The average age of an individual sentenced under a Rule 11(c)(1)(C) plea was 27 years old.

Following the presentation, Katerina Semyonova, of the Public Defenders Service of the District of Columbia, encouraged staff members to offer a better description of Rule 11(c)(1)(C) pleas so that it could be more digestible to the public. She also suggested that the report focus more on cases rather than counts to help the public better understand the data. Judge Lee noted that he would have to give this change some thought.

How Other Guidelines Jurisdictions Handle Lapse and Revival Presentation – Information Item, Nicholas McGuire, Attorney Advisor, and Keelin Herbst, Policy Advisor.

Due to time constraints and the importance of the subject, the presentation and discussion on Lapse and Revival will occur during June Commission Meeting.

Continued Discussion: Moving forward after the Revised Criminal Code Act of 2022 - Discussion Item, Judge Lee and Linden Fry.

The Commission remains committed to evaluating the Guidelines, sentencing policies, and sentencing data. Moving forward, the Commission intends to consider changes to the D.C. Voluntary Sentencing Guidelines. Members should reach out to Director Fry regarding what changes they would like to see considered and discussed.

Meeting Adjourned at 6:02 pm.

NEXT MEETING:
June 20, 2023
Via WebEx

To view the video recording of the full discussion, visit <https://scdc.dc.gov/page/commission-meetings>.

